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In re Application of TATO et al :
U.S. Application No.: 10/088,678 :
Int. Application No.: PCT/IT00/00373 :
Int. Filing Date: 21 September 2000 :
Priority Date: 21 September 1999 :
Attorney Docket No.: 4161-2 :
For: METHOD FOR THE SELECTIVE :
PROTECTION OF PROLIFERATING :
NORMAL CELLS AND THE SELECTIVE :
ERADICATION OF TUMOR CELLS HAVING :
AN INACTIVE p53 PATHWAY :

DECISION

This is in response to applicant's "Submission of Executed Declaration" filed 04 June 2003, which is being treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 21 September 2000, applicant filed international application PCT/IT00/00373, which claimed priority of an earlier Italy application filed 21 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 29 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 18 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 March 2002.

On 21 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 June 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration and a sequence listing must be filed.

On 16 October 2002, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 30 December 2002, this Office mailed a decision dismissing the 16 October 2002 request for status on grounds that the submitted declaration was improper.

On 13 February 2003, applicant filed a renewed request for status under 37 CFR 1.42 along with a newly executed declaration.

On 20 February 2003, this Office mailed a decision dismissing the 13 February 2003 renewed request for status.

On 04 June 2003, applicant filed the present renewed request for status under 37 CFR 1.42 along with a newly executed declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 04 June 2003 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 21 September 2000 and a date under 35 U.S.C. 371(c) of 04 June 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

A handwritten signature in black ink, appearing to read "Bryan Tung", with a stylized flourish at the end.

Bryan Tung
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